



**Tuvalu**

**ENFORCEMENT OF JUDGMENTS  
(PAYMENTS FROM WAGES) ACT**

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Tuvalu

## ENFORCEMENT OF JUDGMENTS (PAYMENTS FROM WAGES) ACT

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Tuvalu

## **ENFORCEMENT OF JUDGMENTS (PAYMENTS FROM WAGES) ACT**

### **AN ACT TO PROVIDE FOR THE ENFORCEMENT OF JUDGMENTS BY THE ATTACHMENT OF WAGES<sup>1</sup>**

Commencement [23rd December 1974]

#### **1 Short title**

This Act may be cited as the Enforcement of Judgments (Payments from Wages) Act.

#### **2 Payment of wages to satisfy judgment**

If any judgment of a court requiring the payment of a sum of money by any person (hereinafter referred to as the judgment debtor) is not complied with the court may, without prejudice to any other powers it may have to enforce the judgment, make an order that part of any wages payable then and in the future to the judgment debtor shall be paid by the employer of the judgment debtor (hereinafter referred to as the employer) into court and applied towards satisfaction of the judgment.<sup>2</sup>

#### **3 Rates of payments from wages**

- (1) Where an order under section 2 is made by or a magistrate's court, other than the Senior Magistrate's Court, the order shall not require payments at a rate exceeding \$20 each fortnight.<sup>3</sup>
- (2) The Minister in consultation with the Chief Justice may by order amend subsection (1) to provide for a different maximum rate in which case the Minister shall cause a copy of the order to be laid before Parliament at its sitting next following the date on which the order came into operation.

- (3) Where an order under section 2 is made by the Senior Magistrate's Court the order shall require payments at a rate which in the opinion of the Senior Magistrate is reasonable having regard to the judgment debtor's wages and anticipated wages and to his resources and needs.

#### **4 Signing and delivery of order**

- (1) Every order under section 2 shall be in the form in the Schedule and shall be signed by the judge or magistrate making the order.<sup>4</sup>
- (2) Having been signed in accordance with subsection (1) the order shall be delivered by hand to the employer:

Provided that the order shall be deemed to have been delivered to the employer in accordance with this subsection —

- (a) where the employer is the Government, if the order is delivered to the Secretary to Government; or
- (b) where the employer is a body corporate, if the order is delivered to the manager, secretary or other principal officer of the corporation resident in Tuvalu.

#### **5 Compliance with order**

- (1) Subject to section 7, upon delivery of an order under section 2 in accordance with section 4(2) the employer shall comply with it; but he shall be under no liability for noncompliance before 7 days have elapsed since the delivery.
- (2) Where a person has delivered to him an order under section 2 directed to him and he is not the employer of the judgment debtor, or he subsequently ceases to be the employer of the judgment debtor, he shall in either case within 10 days from the date of delivery or the cesser, as the case may be, give notice in writing or in person of that fact to the court.
- (3) Any person who without reasonable excuse fails to comply with subsection (2) shall be liable to a fine of \$200.<sup>5</sup>
- (4) All payments made to the court in compliance with an order under section 2 shall be deemed to have been duly made by the employer to the judgment debtor as part of his wages.

#### **6 Application of sums received by court under order**

The court into which a person makes payments in compliance with an order under section 2 shall, after deducting such court fees, if any, in respect of proceedings for or arising out of the order, as are deductible from those payments, deal with the sums paid in the same way that it would if they had been paid by the judgment debtor to satisfy the relevant judgment.

## **7 Priority as between orders**

Where an employer is required to comply with 2 or more orders under section 2 in respect of the same judgment debtor then the employer shall comply with the orders consecutively in the sequence they were delivered to him.

## **8 Statements of wages**

- (1) Where in any proceedings a court has power to make an order under section 2 it may —
  - (a) issue a summons to compel the attendance of the judgment debtor before the court and there require him to give to the court the name and address of his employer and particulars as to his wages and anticipated wages and as to his resources and needs;
  - (b) issue a summons to compel the attendance of any person who appears to the court to be the employer of the judgment debtor (or, where the person who appears to be the employer is a body corporate, of its manager, secretary or other principal officer resident in Tuvalu) before the court and there require him to give to the court particulars of the wages and anticipated wages of the judgment debtor.
- (2) Where an order under section 2 has been made the court may at any time thereafter while the order is in force issue a summons under subsection (1) (a) or (b) and thereafter require the person summonsed to give to the court the information there referred to.
- (3) Every summons issued under this section shall be served by hand on the person to whom it is addressed.
- (4) Any person who without reasonable excuse fails to comply with a summons issued under this section shall be liable to a fine of \$10 and to imprisonment for 1 month.
- (5) The court may require the information referred to in subsection (1) to be given to the court on oath.

## **9 Discharge and variation of orders**

- (1) The court may at any time make an order discharging or varying an order made under section 2.
- (2) Subject to section 7, where an order under section 2 is varied the employer shall, if notice in writing of the variation has been delivered by hand to him (or where the employer is a body corporate to its manager, secretary or other principal officer resident in Tuvalu), comply with the order as varied; but he shall be under no liability for non-compliance before 7 days have elapsed since the delivery.

- (3) Where an order under section 2 has been made and the person to whom it is directed ceases to be the employer of the judgment debtor the order shall lapse (except as respects deductions from wages paid under the cesser and payment to the court of amounts deducted at any time) and be of no effect.

## **10 Penalty for non-compliance**

Any person who without reasonable excuse fails to comply with an order under section 2 delivered in accordance with this Act shall be liable to a fine of \$200.<sup>6</sup>

## **11 Proof of reasonable excuse**

In any proceedings for an offence under this Act the proof of reasonable excuse shall lie on the person charged with the offence.

## **12 Jurisdiction of courts**

Notwithstanding any other law to the contrary but subject to any different provision which may be made by regulations made under section 13, every court shall for the purpose of proceedings under this Act exercise jurisdiction throughout Tuvalu.

## **13 Regulations**

Without prejudice to any powers conferred by other laws to make rules of court or regulations governing magistrates' courts or island courts, the Minister may with the approval of the Chief Justice make regulations for those courts in respect of proceedings under this Act —

- (a) regulating the practice and procedure;
- (b) regulating the jurisdiction of the courts;
- (c) regulating the receipt of moneys paid to a court under an order under section 2 and the application of such moneys;
- (d) generally for the better carrying into effect of the provisions, objects and intentions of this Act.

**SCHEDULE**

(Section 4 (1))

..... Court Case No. ....  
*(name of court making order)*

To.....  
*(name of employer)*

A judgment debt payable by..... to  
*(name of judgment debtor)*

..... has not been paid and the amount  
*(name of judgment creditor)*

of \$ ..... is now due.

It is therefore ordered that you pay to this court the sum of \$..... each week/fortnight/month from any wages due from you to .....

*(name of judgment debtor)*

until you have paid a total sum of \$ .....

Dated..... Signed.....

*(Magistrate or Judge)*

**Note:**

1. Failure to comply with this order without reasonable excuse is an offence punishable by a fine of \$100.
2. If you have previously received another order to pay a part of wages due to the judgment debtor to a court you must complete payments under that order before starting payments under this order.
3. If you are not the employer of the judgment debtor or you subsequently cease to be his employer you must within 10 days of receipt of this order or the termination of the employment, as the case may be, give notice in writing or in person of that fact to the court. Failure without reasonable excuse to do so is an offence punishable by a fine of \$50.

**ENDNOTES**

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<sup>1</sup> 1990 Revised Edition, Cap. 94 – Act 16 of 1974

Amended by Act 4 of 2009, commencement 6 July 2009

Amended by Act 9 of 2021 (commencement 3/6/22 by LN 26/2022 ); This amending Act contained a section that provided that orders, rulings, decisions, or judgments of an Island Court concerning this Act, are saved, remain valid and continue in force; and likewise certain pending matters before the Island Court continue for determination by the Magistrate’s Court

<sup>2</sup> Amended by Act 9 of 2021

<sup>3</sup> Amended by Acts 4 of 2009 and 9 of 2021

<sup>4</sup> Amended by Act 9 of 2021

<sup>5</sup> Amended by Act 4 of 2009

<sup>6</sup> Amended by Act 4 of 2009